

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:19-cr-30-FtM-38NPM

EDGAR VAZQUEZ

ORDER¹

Before the Court is Defendant Edgar Vazquez's Motion to Suppress ([Doc. 17](#)), and the Government's opposition ([Doc. 27](#)). The Court held an evidentiary hearing on July 11, 2019, at which Vazquez was present and represented by counsel. ([Doc. 40](#)). The Court took the motion under advisement. For the following reasons, Vazquez's motion is denied.

BACKGROUND

At the hearing, the Government called only Detective Christopher Rodriguez of the Lee County Sheriff's Office and introduced three aerial maps as exhibits. Vazquez presented no evidence. Based on the hearing's testimony and evidence, the Court makes these findings of fact material to Vazquez's motion:

A weekday-morning rush hour on a three-lane divided boulevard along commercial strips sets the scene for this case. Around 9:00 a.m. on September 13, 2018, a narcotics officer contacted Detective Rodriguez with instructions to stop a red Ford Edge. Detective

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Rodriguez got the call because he was on the highway interdiction unit and patrolling the area in a marked car. A few minutes later, Detective Rodriguez spotted a red Ford Edge in Colonial Boulevard's right lane travelling the speed limit of 45 miles per hour. Driving in the center lane, Detective Rodriguez caught up to the suspect. As he reached the Edge's rear bumper, Detective Rodriguez saw the car abruptly decelerate around 25 miles per hour for no apparent reason and then speed up. From Detective Rodriguez's vantage, he saw no traffic obstruction, red light, school zone, construction zone, braking car, or other obstacle to warrant the sudden slow down. Although no accident resulted, the cars behind the Edge had to slow down quickly to avoid a collision on the crowded boulevard.

After seeing the abrupt deceleration, Detective Rodriguez slowed down, changed lanes to get behind the Edge, and conducted a traffic stop. The stop led Detective Rodriguez to issue Vazquez, the Edge's driver, a written warning for making a sudden decrease in speed without signal. ([Doc. 27-1](#)). The stop also led to officers finding cocaine and a firearm in the Edge and Vazquez's home.

Vazquez now faces a three-count indictment for possessing cocaine with the intent to distribute and possessing a firearm to further a drug trafficking crime. ([Doc. 21](#)). He seeks to suppress the cocaine, drug paraphernalia, and his statements on grounds that Detective Rodriguez lacked probable cause for the traffic stop. ([Doc. 17](#)).

DISCUSSION

The Fourth Amendment protects people against unreasonable searches and seizures, which includes traffic stops. [Whren v. United States, 517 U.S. 806, 809-10 \(1996\)](#). But not all traffic stops are improper. Police may lawfully stop a car where there

is “probable cause to believe that a traffic violation has occurred.” *Id.* at 810 (citation omitted). “Probable cause exists where the facts and circumstances within the collective knowledge of the law enforcement officials, of which they had reasonably trustworthy information, are sufficient to cause a person of reasonable caution to believe an offense has been or is being committed.” *United States v. Jimenez*, 780 F.2d 975, 978 (11th Cir. 1986) (citation omitted).

“[T]here is probable cause to conduct a traffic stop where an officer observes a defendant commit a non-criminal traffic violation such as speeding or making an illegal lane change.” *United States v. Woods*, 385 F. App’x 914, 916 (11th Cir. 2010); see also *United States v. Cooper*, 133 F.3d 1394, 1398 (11th Cir. 1998) (saying an officer “may stop a vehicle when there is probable cause to believe that the driver is violating any one of the multitude of applicable traffic and equipment regulations relating to the operation of motor vehicles”). Notably, this is an objective test. “When determining whether an officer had probable cause to believe that a traffic violation occurred, the officer’s motive in making the traffic stop does not invalidate what is otherwise objectively justifiable behavior under the Fourth Amendment.” *United States v. Harris*, 526 F.3d 1334, 1337 (11th Cir. 2008) (internal quotations and citation omitted). So “when facts known to the officer give probable cause, even if the officer’s subjective intent does not give probable cause” the stop is lawful. *United States v. Wilson*, 662 F. App’x 693, 694 (11th Cir. 2016).

Detective Rodriguez cited Vazquez for violating *Florida Statute § 316.155(3)*, which says “[n]o person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give such signal.” *Fla. Stat.*

§ 316.155(3). But that law is no longer in play because both sides agree that Vazquez properly signaled his sudden stop with brake lights. But the Government argues the traffic stop is still valid because the objective facts created probable cause to believe Vazquez violated a different Florida traffic law. That law is [Florida Statute § 316.183\(5\)](#): “No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with the law.”

Detective Rodriguez may have been incorrect in his decision to cite Vazquez under the sudden decrease in speed law. But his mistake is a nonstarter because, as noted, the Court need only decide that Detective Rodriguez had probable cause to cite Vazquez for any violation. See [Lewis v. United States](#), 491 F. App’x 84, 85 (11th Cir. 2012) (stating “officers’ subjective motivations for a search do not invalidate an otherwise objectively justified search”); [United States v. Delgado](#), 250 F. App’x 268, 270 (11th Cir. 2007) (finding probable cause to stop the defendant’s car because the arresting officer had reason to believe at least two traffic violations occurred); [United States v. Roy](#), 869 F.2d 1427, 1433 (11th Cir. 1989) (stating “the existence of probable cause is determined by objective standards”). The parties agree on this point. In fact, the testimony, evidence, and arguments at the hearing focused on whether Detective Rodriguez had probable cause to stop Vazquez for violating the new statute raised by the Government.

In support of its new theory, the Government argues that Detective Rodriguez saw Vazquez suddenly decelerate about 25 miles per hour, causing the Edge to impede the cars behind him and posing a safety risk to the motoring public. And these undisputed facts gave Detective Rodriguez at least probable cause to stop Vazquez. But Vazquez

sees things differently. He argues that he could not have violated § 316.183(5) because Detective Rodriguez's testimony on the traffic being heavy was conclusory and the cars behind Vazquez had two other lanes to use to avoid an accident.

After considering the record, parties' arguments, and applicable law, the Court agrees with the Government and finds objective probable cause for Vazquez violating § 316.183(5) to warrant the traffic stop. Detective Rodriguez testified—without contradiction—that Vazquez suddenly braked and reduced his speed by more than half, which caused the cars behind him to decelerate. He also testified to seeing nothing to cause Vazquez's abrupt deceleration like an obstruction in the roadway, red traffic light, or school zone. And as a highway interdiction officer, Detective Rodriguez has seen similar erratic driving cause accidents. At bottom, Vazquez's sudden deceleration created objective probable cause for Detective Rodriguez—and a prudent officer in his place—to believe that Vazquez was operating the Edge at such a slow speed to impede the normal and reasonable movement of traffic.

Vazquez presented several cases to show that he could not have violated § 316.183(5). But none are persuasive. Vazquez's best case is [*Agreda v. State*, 152 So. 3d 114 \(Fla. Dist. Ct. App. 2014\)](#), which is easily distinguishable. In *Agreda*, a detective stopped a car for driving 20 miles below the speed limit under § 316.183(5). The stop led to finding crack cocaine and a pipe in the car. The defendant, who was a passenger, moved to suppress the contraband because there was no basis for the traffic stop. "The circuit court held the stop was lawful based on the detective's concern that the car's slow speed was caused by a possible medical problem with the driver." [152 So.3d at 116](#).

The Florida appellate court rejected that finding because the detective testified his sole reason for stopping the car was impeding the flow of traffic and he observed nothing to suggest a medical issue with the driver. From there, the appellate court examined the objective facts on whether the car was impeding traffic. And the evidence showed the car was travelling between the minimum and maximum speed limits, traffic was light, and nothing prevented cars from passing in the empty left lane. It also reasoned that a motorist cannot drive within the permissible speed range and impede traffic. The appellate court thus found the stop improper.

The facts here stand in sharp contrast to *Agreda*. Detective Rodriguez's uncontested testimony established that rush-hour traffic on the three-lane divided boulevard with no minimum speed limit was heavy and the lane to the left of Vazquez was occupied by Detective Rodriguez.² Vazquez was traveling the maximum speed limit and slammed on the brakes, causing the cars behind him to slow down. Because of this careless driving, the cars behind Vazquez were impeded from continuing to travel at the speed limit. *Agreda* is thus off the table.

Vazquez's four other cases likewise miss the mark. They concern either a different Florida traffic law or come from other jurisdictions. See [*Carter v. Hamaoui*, 699 F. App'x 519 \(6th Cir. 2017\)](#); [*United States v. Hutton*, No. 3:12-00215, 2013 WL 3976628, at *1 \(M.D. Tenn. Aug. 2, 2013\)](#); [*Reid v. State*, 898 So. 2d 248 \(Fla. Dist. Ct. App. 2005\)](#); [*Underwood v. State*, 801 So.2d 200 \(Fla. Dist. Ct. App. 2001\)](#). Using these cases,

² To the extent Vazquez tries to undercut Detective Rodriguez's testimony about the traffic volume, the Court finds the officer credible because the incident occurred during morning rush hour on Colonial Boulevard less than one mile from an interstate highway. Although Detective Rodriguez could not remember how many cars were behind Vazquez, he does recall seeing them stop suddenly.

Vazquez argues he could not impede traffic because the trailing cars had the left lane open to maneuver around the Edge. Not only are those cases not binding on this Court, but the statutes in them had scienter requirements that are not applicable here.

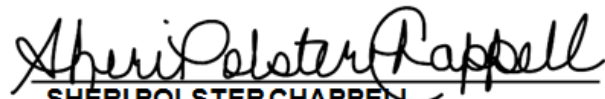
Ultimately, the undisputed facts doom this motion. The record shows that Detective Rodriguez had objective, probable cause to believe that Vazquez impeded traffic. The resulting stop was lawful and so were the searches and seizures that followed. The Court denies the motion to suppress.

Accordingly, it is now

ORDERED:

Defendant Edgar Vazquez's Motion to Suppress ([Doc. 17](#)) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida on this 1st day of August 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: Counsel of Record